



PATENT
Customer No. 22,852
Attorney Docket No. 7528.0002-15

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Cyril J. SCHWEICH, Jr. et al.

Application No.: 10/073,968

Filed: February 14, 2002

For: HEART WALL TENSION
REDUCTION APPARATUS

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) Group Art Unit: 3762
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) Examiner: J. Jastrzab
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Assistant Commissioner for Patents
Washington, DC 20231

TECHNOLOGY CENTER R3700

Sir:

TERMINAL DISCLAIMER

Myocor, Inc. ("Assignee), duly organized under the laws of Delaware and having its principal place of business at 13300 67th Avenue North, Maple Grove, Minnesota 55311, through its attorneys, represents that it is the assignee of the entire right, title and interest in and to the instant application, Application No. 10/073,968, filed February 14, 2002, in the names of Cyril J. Schweich, Jr. and Todd J. Mortier, by assignment duly recorded in the United States Patent and Trademark Office at Reel 8388, Frame 0776 on January 2, 1997. Assignee further represents that it is the assignee of the entire right, title, and interest in and to U.S. Patent No. 6,077,214, as indicated by assignment duly recorded in the United States Patent and Trademark Office at Reel 9561, Frame 0641 on November 2, 1998, and is the assignee of the entire right, title, and interest in and to U.S. Patent No. 6,165,119, as indicated by

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assignment duly recorded in the United States Patent and Trademark Office at Reel 8730, Frame 0855 on September 18, 1997.

Assignee hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, of U.S. Patent No. 6,077,214 and U.S. Patent No. 6,165,119. Assignee hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it is commonly owned with U.S. Patent No. 6,077,214 and U.S. Patent No. 6,165,119. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Assignee does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of U.S. Patent No. 6,077,214 or of U.S. Patent No. 6,165,119, as presently shortened by any terminal disclaimer, in the event that either of these patents later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$55.00 is being filed with this Terminal Disclaimer. If a check for the required fee

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is not filed concurrently herewith or if there are any additional fees due in connection with the filing of this Terminal Disclaimer, please charge the fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
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Dated: January 24, 2003

By: *Susanne T. Jones*
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